EPA New England

Reuse Assessment

Beede Waste Oil Superfund Site
Plaistow, New Hampshire

Office of Site Remediation and Restoration
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Purpose

EPA-New England is responsible for the cleanup of over 100 Superfund sites throughout New England. Although protecting human health and the environment is the primary objective of these cleanups, EPA also recognizes the value in helping to return Superfund sites to beneficial reuse. Understanding the current and likely future uses of a site are fundamental to achieving both objectives.

Most importantly, accurate information on the likely uses of a Superfund site and the surrounding area is necessary to make reasonable assumptions about possible exposures to contaminants. These assumptions form the basis for establishing site-specific cleanup levels and, ultimately, for designing a protective remedy. Uncertainty in this information makes it difficult to appropriately tailor the site investigation and cleanup, and oftentimes leads to increased project costs and delays.

From the standpoint of facilitating site reuse, details regarding current or planned uses can enable EPA to consider those uses in the selection, design and implementation of the remedy. For instance, it may be possible to locate a soil or groundwater treatment system so as not to physically restrict the construction of future buildings. In other cases, the cleanup might be phased in a way that allows certain portions of a site to be available sooner. There are numerous Superfund sites across the country where reuse has already been facilitated in this manner. However, such accommodations will only be considered if they do not compromise the protectiveness of the cleanup.

This Reuse Assessment summarizes information on the current and potential future land uses at the Beede Waste Oil Superfund Site.

The Reuse Assessment is presented in three sections:

- **Section 1 - Site Description:** Describes the physical, environmental, and historical context of the Site.
- **Section 2 - Use/Reuse Status:** Describes the current and potential future uses of the separate parcels or discrete areas within the Site. Potential use/reuse considerations relating to these parcels or areas are also discussed.
- **Section 3 - General Findings/Issues:** Provides a general summary of relevant findings and potential issues.

SECTION 1 – SITE BACKGROUND

General Description

The Beede Waste Oil Superfund Site (Site) is located at 7 Kelley Road in Plaistow, New Hampshire. The Site property occupies approximately 40.6 acres and is comprised of two parcels. Parcel 1 (21.6 acres) is owned by Hampshire Realty Trust and is the former location of Beede Waste Oil, Inc.'s petroleum and waste oil operations. Parcel 2 (19 acres) is owned by Sun Realty Trust and has been used largely for commercial sand and gravel operations. (EPA Record of Decision, 2004)

QUICK FACTS

Location: *7 Kelley Road*
Plaistow NH
(Rockingham County)

ID Number: NHD018958140

Site Area: 40.6 acres

Number of Parcels: Two

Current Uses: Former commercial use, one former commercial building, lagoon, wetlands, and undeveloped land

Ownership: Private

Cleanup Status: EPA released a final cleanup plan called a Record of Decision in January 2004. The plan calls for active soil and groundwater remediation.

A site location map and a general site features plan is included in Appendix B.

The Site property has frontage on Kelley Road and Old County Road. All access to the Site is from Kelley Road to Parcel 1, since access to Old County Road is restricted by Kelley Brook. There is no direct access to Parcel 2.

The topography of Parcel 1 is relatively flat and the northern boundary slopes gently down to Parcel 2. The topography of Parcel 2 has been altered by former sand and gravel mining operations.

One significant building structure remains from the former site operations. A 10,000 square foot former office/facilities building (commercial building), with an attached 4,000 square foot canopied structure and an adjacent paved parking area, is located near the Kelley Road entrance on Parcel 1. This building is vacant but in generally good condition and may be used to support future cleanup activities. A second building was demolished in April 1998 to facilitate site investigation and cleanup activities. This 7,200 square foot building was located approximately 300 feet east of the commercial building on Parcel 1.

Except for some wooded areas around the perimeter, most of the Site is open and sparsely vegetated.

Zoning: In circa 1996, the Site was zoned "medium density residential" (MDR) by the Town of Plaistow (CMA et al, 2003). Among the permitted uses under this designation are: single-family/duplex; multifamily in a planned development; manufactured housing in a planned development; private/public nonprofit recreation; essential services; accessary uses; churches; and cemetery/burial site and mausoleum. Other uses allowed by "special exception" are: nursing and convalescent homes; private schools; fraternal, service and charitable uses; certain compatible home occupation uses; and in-law apartments in owner-occupied dwellings. With the exception of a "commercial I"

district along a portion of the southeast boundary of Parcel 1, all abutting properties are zoned MDR. A copy of the Town of Plaistow zoning map in included in Appendix C.

Surrounding Land Uses: The abutting properties and general vicinity of the Site are primarily single and multi-family residential homes. The appraised property values in the vicinity of the Site ($178,113 averaged) are approximately 20% higher than that of the town as a whole (CMA et al, 2003). The surrounding residential population distribution is summarized below:

Table 1 - Population Distribution (Sanborn, 2001)

Radius	Approximate Population
Within 200 feet of property boundary	63 residences
1 mile	2,300 people
2 miles	5,950 people
3 miles	11,800 people

***Groundwater Uses*:** The Town of Plaistow does not have a municipal water supply and distribution system. All residences and commercial facilities obtain their water from private or shared supply wells. Typically, older wells are installed in overburden sand and gravel, and newer or replacement wells are drilled into bedrock. The New Hampshire Department of Environmental Services (NHDES) has issued a "High Use and Value" classification for area groundwater (their highest quality classification), reflecting the use of the aquifer as an active water supply. The estimated population drinking from groundwater sources within two miles of the property is summarized below:

Table 2 - Estimated Drinking Water Populations Served by Groundwater Sources Within Two Miles of Property (NHDES Site Inspection Report, 1995)

Radial Distance from Property (miles)	Estimated Population Served by Private Wells	Estimated Population Served by Public Wells	Total Estimated Population Served by Groundwater
0.00 -<0.25	304	0	304
0.25 -<0.50	953	0	953
0.50 -<1.00	971	0	971
1.00 -<2.00	1,890	1,830	3,720
TOTALS	4,118	1,830	5,948

EPA has found that water supply wells located at several properties to the south of Parcel 2 and one to the north of Parcel 1 have been impacted by Site contaminants. (Sanborn, Head & Associates, 2001)

Surface Water Uses: Kelley Brook crosses the north and northeastern portions of the property and flows into the Little River approximately 3,000 feet to the southeast. From this confluence, the Little River flows approximately six miles in a generally southward direction and discharges into the Merrimack River in Haverhill, Massachusetts.

The Little River and all its tributaries (including Kelley Brook), in the towns of Hampstead, Atkinson, Plaistow, Kingston and Newton, New Hampshire, from their sources to the New Hampshire / Massachusetts State Line, are designated as Class B surface water bodies by the NHDES. The Class B designation indicates the surface waters are "potentially of the second highest quality and are acceptable for swimming and other recreation, fish habitat and for use as a water supply following adequate treatment." There are no known drinking water intakes within 15 miles downstream of the Site along Kelley Brook, Little River, or the Merrimack River. Kelley Brook and Little River formerly received approximately 100 stocked brook trout annually. Kelley Brook is no longer stocked due to Site-related contamination. It is presumed that Kelley Brook and the Little River are fished recreationally (i.e., non-subsistence). The Merrimack River is used for fishing, boating and other recreational activities.

Environmental investigations by EPA have confirmed that contaminants apparently originating from the Site have been detected in Kelley Brook surface water and sediment.

Chronology of Key Events

1926 - 1962: Robert Beede operates a waste oil disposal and recycling facility.

1962 - 1992: Cash Energy and subsidiaries store and distribute fuel oil, recycled used oil and antifreeze, and (starting in the late 1980's) conduct cold-patch asphalt batching using oil-contaminated soil.

1980 - 1983: Beede Waste Oil enters into a Consent Decree with NHDES, under which Beede Waste Oil removes hazardous substances from three underground storage tanks.

1991: The state attempts to compel the company to correct permit violations.

1992: Rockingham County Superior court issues injunction requiring owners to conduct a site investigation, remove oil from surface water and groundwater, and cover contaminated soil piles.

1992 - 1994: Beede Waste Oil / Cash Energy stops taking in contaminated soil and waste oil. Tri-State Resources operates a virgin fuel oil storage and distribution business.

1993: NH DES begins court-mandated clean-up activities when site owner does not.

1994: All business operations cease.

1996: The Site is placed on EPA's Superfund List.

1996 - 1997: EPA & NHDES remove over one million gallons of contaminated waste oil, sludge, and antifreeze. Approximately 100 tanks and 800 drums are removed.

1997 - 2001: EPA & NH DES complete a Remedial Investigation and Feasibility Study that fully assesses site contamination, possible related risks, and evaluates cleanup options.

2000 - current: EPA constructs and operates a vacuum-enhanced extraction system to remove contaminated floating oil.

2002 - EPA releases a proposed cleanup plan in a document called a Proposed Plan.

2003 - The Town of Plaistow releases a Reuse Plan for the Site.

2004 - EPA releases a final cleanup plan in a document called a Record of Decision. The plan includes active soil and groundwater remediation.

Environmental History / Status

A more detailed description of the Site history can be found in Section 1.2 of the Remedial Investigation Report.

Past Plant Operations: Commercial operations including recycling of used oil, and storage and distribution of virgin fuel oil reportedly started in 1926. Cash Energy, Inc., Beede Waste Oil, Industrial Fuels Corporation and related subsidiaries and affiliates operated at the property from 1962 to 1994.

Vacuum-Enhanced extraction system (2000)

Modern operations at the Site began in the 1950's with the installation of a 140,000-gallon underground storage tank (UST) and several above ground storage tanks (ASTs). Additional USTs and ASTs were added throughout the 1960's, 1970's and 1980's. A one acre unlined lagoon was observed during the mid to late 1960's. Although the exact number of ASTs is not known, nearly 100 ASTs were observed on-site following closure of the facility. Most ASTs were railroad tanker cars sitting directly on the ground (unlined) and used for waste oil storage. These were typically connected by subsurface piping, reportedly for waste oil blending. A few ASTs were reportedly used for virgin fuel oil and gasoline storage. Over 800 drums were also observed. The tanks and drums had a combined storage capacity of about 3 million gallons. Contamination originated from poor storage and handling of waste oil and other products, as well as the unlined and uncovered storage of large contaminated soil piles.

EPA and State Response Actions: In the fall of 1983, chemical contamination was discovered in a residential well near the Site. The well was taken out of service and an alternate water supply was provided. Beede Waste Oil / Cash Energy, Inc. (Beede) conducted several investigations that verified the presence of contamination in soil and groundwater on the Site, however they did not fully comply with subsequent court orders to initiate cleanup activities.

Between July 1996 and August 1997, EPA and NHDES coordinated the emergency removal of all abandoned liquid waste from the aboveground storage tanks and drums at the Site. NHDES completed a subsequent action to physically remove the tanks and drums from the Site. In addition, several large soil piles containing varying levels of contaminants were covered with tarpaulins and a fence was erected to keep out trespassers. NHDES minimized oil from seeping into nearby Kelley Brook by using booms and sorbents. These joint removal efforts eliminated immediate threats and stabilized the Site conditions.

In November 1997, EPA initiated a non-time critical removal action which included the installation of a recovery trench to extract floating oil product from the groundwater and eliminate its discharge to Kelley Brook. In February 2000, EPA completed construction and began operation of a full-scale oil recovery system to remove contaminated oils

floating on the groundwater surface referred to as light non-aqueous phase liquid (LNAPL). This vacuum enhanced extraction system has recovered over 84,000 gallons of waste oil in the four years that it has operated and continues operating today to eliminate what constitutes a major source of groundwater contamination. An unknown volume of floating oil remains.

EPA and the NHDES completed field investigations and finalized a Remedial Investigation (RI) report in February 2001. It concluded that the estimated 57.6 million gallon plume of contaminants is dispersed over an area of approximately 26 acres and extends off-site to the north-east, impacting 14 adjacent residential wells (RI Report). In October 1996, NHDES installed point-of-use treatment on the well-heads of three of these residential wells. The treatment systems will be maintained to ensure safe potable water until completion of the remedy.

A Feasibility Study (FS) report, which evaluated several cleanup options, was completed in January 2002. In June 2002, EPA released a proposed cleanup plan to address soil and groundwater contamination. The public comment period for the proposed plan closed on August 18, 2002. A Record of Decision (ROD), which documents the final cleanup plan selected for the entire Site, was finalized on January 9, 2004. The Responsiveness Summary included as Part 3 of the ROD contains the complete text of all comments received during the public comment period on the Proposed Plan and a written summary of EPA's responses.

Superfund Enforcement Actions: On July 2, 1996, EPA notified three parties who either owned or operated the Beede Waste Oil and Cash Energy, Inc. facility of their potential liability under Superfund with respect to the Site. On June 1, 2001, EPA sent general notice letters to approximately 2,000 additional parties identified as generators or transporters of waste at the Site, under the Comprehensive Environmental, Response, Compensation, and Liability Act of 1980 ("CERCLA" or "Superfund").

Since issuance of general notice letters, EPA, consistent with its policy of pursuing early settlements with parties who generated a "*de minimis*" amount of hazardous waste to NPL sites, completed three significant *de minimis* party settlements at Beede with a total of 923 potentially responsible parties ("PRPs"). A fourth *de minimis* settlement offer is pending and will likely be finalized in late 2004, increasing the number of parties who have settled their liabilities for the Beede site. The funds raised pursuant to these extensive settlement efforts, over $6.6 million so far, are being held in a site-specific Superfund Special Account for future application to site-related costs.

The fourth Beede *de minimis* settlement will be the last planned EPA settlement prior to commencement of 'global' settlement negotiations for performance of the site remedy set forth in the ROD. Parties identified by EPA as "Major" parties, and other parties who remain following conclusion of EPA's *de minimis* settlement efforts this fall, are expected to organize themselves into a representative PRP group in preparation for these negotiations.

The natural resource trustees have yet to issue any damage assessments. There is currently no known active litigation associated with this Site.

Site Contamination: The following is a general description of the nature and extent of site contamination. A detailed discussion can be found in Section 5.0 of the Remedial Investigation report.

Soil contamination is limited to Parcel 1 and the extreme southern boundary of Parcel 2. Although 17 contaminants of concern were identified in soil, polychlorinated biphenyls (PCBs) and lead are the most concentrated and therefore generate the most risk. The groundwater on-site and in adjacent residential supply wells is contaminated with volatile organic compounds (VOCs) and metals. Groundwater is the sole drinking water source in Plaistow. Floating oil, containing PCBs and VOCs, referred to as light non-aqueous phase liquid (LNAPL), is present on the groundwater table beneath about 2 acres of Parcel 1. The LNAPL was once present at a thickness of up to five feet, but has since been greatly reduced by the ongoing removal efforts. PCBs, VOCs and metals contamination are also present in many of the 17 soil piles remaining on-site, and in surface water and sediments from adjacent Kelley Brook.

The Remedial Investigation concludes that petroleum contaminated wastes including PCBs, PAHs, VOCs, lead and various other contaminants leaked from above and underground storage tanks located throughout the former operations area. Spills also resulted from poor handling of petroleum wastes. All abandoned liquid wastes have been removed from the site and EPA is actively addressing the floating oil present of the groundwater table.

Results of the Remedial Investigation indicate that the remaining primary sources of contamination are:

1. Approximately 80,000 cubic yards of soil including shallow soil over much of Parcel 1 (55,000 cubic yards), seventeen soil piles (16,000 cubic yards), a landfill (11,000 cubic yards), and a small area of sediment (1,100 cubic yards). These materials are primarily contaminated with PCBs and lead.

2. Soils at a depth greater than ten feet below ground surface are an ongoing source of VOC contamination to the groundwater. This contamination is primarily associated with an area of non-aqueous phased liquids, commonly referred to as a “smear zone,” which is located about thirty feet below ground surface.

3. Groundwater is contaminated by an estimated 57.6 million gallon plume of various VOC contaminants dispersed over an area of approximately 26 acres and extending off-site to the northeast.

Planned Site Cleanup Activities: The final site-wide remedy, as presented in the ROD in January 2004, is a comprehensive approach that includes both active source control and management of migration components.

<u>Source Control & Management of Migration:</u>
The proposed source control activities include removing contaminated soil and sediment (to a depth of ten feet) for off-site disposal and treating deeper soils through a process of soil vapor extraction, which may be thermally-enhanced. Management of migration activities include the extraction and on-site treatment of groundwater followed by long-term monitoring of groundwater, surface water and sediment to ensure the effectiveness of the remedy. Institutional controls will be established to permanently prevent

excavation of deep soils (i.e., greater than ten feet below ground surface) and to temporarily prevent ingestion of groundwater until the aquifer is restored to drinking water standards.

Specifically, the major components of the proposed remedy are:

- Excavation and off-site disposal of approximately 80,000 cubic yards of contaminated soil including surface soils over a large area of Parcel 1 (55,000 cubic yards), seventeen soil piles (16,000 cubic yards), a landfill (11,000 cubic yards) and a small area of sediment (1,100 cubic yards).

- Operation of an on-site soil vapor extraction system, possibly thermally-enhanced through steam injection, to treat soils at a depth greater than ten feet below ground surface to remove VOCs, which are an ongoing source of groundwater contamination.

- Operation of an on-site groundwater extraction and treatment system. Groundwater contaminated with VOCs will be extracted from the aquifer, treated, and reintroduced to the water table at a rate sufficient to restore on-site groundwater to drinking water standards in approximately 15 years.

- Establishment of a Groundwater Management Zone by the potentially responsible parties in accordance with New Hampshire state law to prevent consumption of groundwater.

- Establishment of land-use restrictions by the property owner or through a local ordinance to prevent excavation below ten feet.

- Establishment of a long-term groundwater monitoring program to evaluate the effectiveness of the remedy and to ensure the quality of area water supply wells.

- Establishment of a long-term surface water and sediment monitoring program to evaluate the effectiveness of the remedy and to monitor the progress of natural attenuation of the contaminants in Kelley Brook.

This approach is intended to address the principal human health and ecological threats by removing all known sources of contamination and actively treating the groundwater to prevent further migration of the plume and ultimately to restore the aquifer to drinking water standards. The overall goal of the remedy is to restore the Site for future residential and recreational uses.

NHDES has been a strong partner with EPA in the Site investigation and clean-up activities and continues to work in close coordination on matters affecting the Site. Under a cooperative agreement between EPA and the NHDES, the state performed the Remedial Investigation/Feasibility Study and will continue to play an active role in the remediation of the Site and long-term monitoring of the groundwater.

SECTION 2 – REUSE STATUS

This section provides a general summary of the current and potential future uses of the Site. Potential use/reuse considerations are also discussed. This summary is based on information that was readily available to EPA. Important sources of information specific to the potential reuse of the Site include the following:

- *Report on Reuse and Redevelopment Planning Alternatives for Beede Waste Oil/Cash Energy Superfund Site; Plaistow, New Hampshire (March 2003)* (Reuse Report)

  This report was prepared by CMA Engineers, Inc. and Sherman, Greiner and Halle, Ltd. , consultants to the Town of Plaistow, with funding provided by EPA through it's Superfund Redevelopment Initiative (SRI) Pilot program[1]. The Town of Plaistow applied for a $99,000 grant on July 29, 2002 to enable them to conduct a reuse planning process for the site consistent with the goals, expectations and needs of the Plaistow community. EPA awarded this grant on September 23, 2002. (Further details on the reuse planning process, key assumptions and other relevant background can be found in the Reuse Report.)

- *May 14, 2003 Letter to Jim DiLorenzo (EPA) from John Scruton, Town Manager* (May 14th Letter)

  This letter included a summary of the nine motions that were passed by the Board of Selectmen on May 12, 2003 regarding the intended reuse of the Beede properties. Also included was a plan map depicting reuse Scheme F. The letter and the summary of the nine motions passed is included as Appendix E.

The Town of Plaistow is currently revising and updating their Master Plan. In conducting the reuse planning process under the SRI Pilot, the Town's consultants considered the draft Master Plan in their planning assumptions (CMA et al, 2003).

Beede Waste Oil Site Property

Background: Although the Beede Site consists of two parcels, they will be treated in this document as one property. The property consists of Parcel 1, the Hampshire Realty Trust property and Parcel 2, the Sun Realty Trust property. These are recorded on the town tax map as Map #32, Lot 12 and Map #51, Lot 7, respectively.

The Site has road frontage on Kelley Road and Old County Road. New Hampshire Route 125, a major north-south thoroughfare through Plaistow, is located a few hundred yards east of the Site. Once inside the Site entrance, several unpaved roads provide access to the back portions of Parcels 1 and 2.

[1]As part of the Superfund Redevelopment Initiative (SRI), EPA has developed a Pilot Program to help local governments participate in the cleanup and reuse of Superfund sites. Under the Pilot Program, EPA provides or seeks to have potentially responsible parties provide, up to $100,000 in financial assistance and/or services to local governments for specified activities to help determine the future use of their sites. (From EPA's SRI web page)

Access to Parcel 1 is restricted by a chain link fence that surrounds the former operations area, except for a portion of the boundary with Parcel 2. Access to Parcel 2 is restricted by a chain link fence that is located along the eastern boundary and Kelley Brook to the north and west. All access to the Site is from Kelley Road to Parcel 1, since access to Old County Road is restricted by Kelley Brook. There is no direct access to Parcel 2.

The abutting properties in the vicinity of the Site are largely single and multi-family residences. Some commercial/retail use is present along Main Street to the southeast. Both site parcels are currently zoned "medium-density residential." The zoning map for the Town of Plaistow is included as Appendix C.

There are significant areas of wetlands located on the northern boundaries of the Site. These comprise approximately 8% of the land area. The Town has established a 100 foot buffer zone requirement in its local by-laws.

The only significant structures remaining on the Site are a commercial building, parking area, office trailer, and two small treatment buildings, storage tanks, and piping associated with the on-going cleanup operations. The 10,000 square foot commercial building is located near the Site entrance on Parcel 1. It was used for office space, a laboratory, material processing, and vehicle maintenance and storage. A 4,000 square foot canopied area, formerly used for drum storage, is located along the southwest side of this building. The commercial building (circa 1980s) appears to be in good shape.

The property owners are reported to be delinquent in local property taxes on both parcels (estimated to be over $800,000) and continue to accrue interest and penalties at a rate of approximately $130,000/year. The State of New Hampshire also has a significant lien, valued at just under $2,000,000, on Parcel 1 for past environmental response costs (CMA et al, 2003).

There are no municipal water supplies or sewer systems in Plaistow. Potable water must be obtained through private or shared water supply wells, and waste water must be disposed of in septic systems (CMA et al, 2003). Electrical power is available on Kelley Road.

Current Uses: The Site, which has been the location of petroleum and waste oil storage/handling since the 1920s, is currently unoccupied, except to support remedial activities.

Potential Future Uses: The current owners of the Site have not publicly indicated any intent to improve the property or transfer ownership to other parties. None of the owners are believed to have participated in the reuse planning process conducted under the SRI Pilot, despite attempts to contact them.

The Town of Plaistow continues to express a strong interest in reuse of the property and on May 12, 2003, the Board of Selectmen adopted a reuse approach for the Site that is represented by two conceptual plans. These plans, identified as Scheme E and F, are included as Appendix D. Both plans envision mixed residential, recreational, and general community uses in different configurations. Common elements of the two plans are the development of about 25 units of mature housing and a community center building on Parcel 1, and recreational fields on Parcels 1 and 2.

Although the Town does not currently own or lease the two parcels, it is in a position to possibly acquire them through involuntary acquisition, such as a tax foreclosure or eminent domain taking. As indicated previously, the properties are currently in tax arrears. The Town's most recent stated position is that they do not plan to acquire and hold title to the parcels; however, as discussed in the Reuse Report, the town officials are considering and may pursue other options for obtaining control.

"The Town has preliminarily evaluated potential ownership structures for proceeding with re-use and re-development of the site, recognizing the potential importance of exercising the Town's tax lien to facilitate project progress and meeting the Town's long term objectives. The recommended development plans presented above assume that an effective ownership transition is ultimately accomplished which:

- Potentially has the Town exercising its tax lien, but
- Transfers ownership of the site in a structure which preserves the rights of the Town to assure appropriate control for public uses envisioned; but limits the legal liability to the Town for environmental or civil liability which exists now or may exist in the future;
- This will likely involve establishment of a trust, or other legal structure, with the State of New Hampshire, non-profit limited liability parties, and or PRP's." (CMA et al, 2003)

On May 12, 2003, the Board of Selectmen subsequently passed the following motion that specifically addresses this issue:

> "I move that the Board of Selectman accept the Reuse Committee's recommendation that the Town should continue to work with legal counsel to pursue some type of arrangement for ownership of the land where the tax liens are transferred to a land trust or other suitable entity where provisions are made such that the Town has control of all activities and uses on Site but does not have any liability associated with the contaminated soils or water originating from the site". (Plaistow, 2003)

As further evidence of it's intent to pursue Site control, the Town of Plaistow recently requested, and was granted, a time extension to the SRI pilot (through to December 31, 2005). The Town intends to use the additional time and remaining resources in the grant to coordinate Site ownership and access issues.

Potential Reuse Issues /Considerations: Other important factors that could potentially impact the reuse of the Site include:

- *Access to the Site*: Current access to the Site is limited to the former entrance off Kelley Road, which is a narrow residential road. Parcel 2 does not have direct access. As suggested in the Reuse Report, reuse options could be limited if additional access cannot be provided. A number of possibilities were examined as part of the Town's reuse planning process, and specific recommendations were incorporated in the two schemes adopted by the Town's Board of Selectmen. These include the construction of a pedestrian or traffic bridge over Kelley Brook.

- *Water Supply*: Because groundwater in the vicinity of the Site is contaminated, and will remain so for an estimated fifteen years or more, and no public water supply currently exists, an off-Site source of water will be necessary to support the reuse schemes proposed by the Town.

- *Institutional Controls*: The remedy requires institutional controls at the Site. These include a Groundwater Management Zone (GMZ) to prevent consumption of groundwater, and land-use restrictions to prevent soil excavation below ten feet. A fishing restriction already put in place by New Hampshire Fish and Game will also remain.

- *Vapor Intrusion:* Since reuse of the Site may begin before restoration of the aquifer, significant VOC-contamination may be present in groundwater beneath planned buildings. To the extent structures, including residences and a community center, are placed on the Site prior to the completion of groundwater remediation, construction should include well-established techniques to eliminate potential vapor intrusion.

- *Stakeholder and PRP Coordination:* The Beede Waste Oil Superfund Site is somewhat unique in terms of the large number of PRPs. Such broad interest will likely require skilled coordination of interests and goals amongst the parties during site cleanup.

SECTION 3: GENERAL FINDINGS / RECOMMENDATIONS

Reasonably Anticipated Future Land Uses (RAFLUs): It is important to emphasize that the federal government does not have an ownership interest in the two Site parcels. As such, EPA maintains a neutral position with respect to the nature of their future use. In conducting a Reuse Assessment, EPA seeks to identify those land uses that can be reasonably anticipated based on currently available information. However, in doing so, EPA does not attempt to determine which reuse scenario is "best suited" for a given Site. Where multiple uses are possible, or there is uncertainty regarding those uses, EPA will consider the range of protective uses that could reasonably occur (EPA, 2001; EPA, 1995).

In the case of the Beede Superfund Site, two critical considerations are the current zoning and surrounding land uses[2]. As discussed previously, the area encompassed by the Site and, with one minor exception[3], the properties surrounding the Site are classified as "medium density residential." Among the permitted uses specified for MDR zoning are: single family/duplex housing, multifamily housing in a planned development, private/public nonprofit recreation, and churches. Consistent with this zoning, the surrounding land uses are strongly residential in character, as indicated by the following description:

> "The north side of Kelley Road is predominantly single-family residential dwellings with a small residential sub division that abuts the northern boundary of [the] site located along Fran Avenue. Old County Road, east of the site, has low-density single-family residential housing with large areas of vacant land. A residential sub division exists along Shady Lane and Walton Road south of the site. At the eastern end of Walton Road there is a multi family apartment complex and restaurant facility." (Vita Nuova, 2002)

Based on these two factors alone, EPA believes that there is sufficient basis to conclude that residential and recreational use of the two parcels can be reasonably anticipated. Even if the current owners were to transfer their respective properties to other parties or decide to redevelop them on their own, they would still be constrained by the current zoning regulations.

In further evaluating land use assumptions for the Site, EPA also considered the Town's reuse proposals. The Town's intentions and preferences are important because the Town has the ability to pursue acquisition through tax foreclosure and eminent domain takings. In addition, any uses not currently allowed under the MDR zoning would require a zoning change. The results of the Town's Site-reuse planning process is one indication of whether there would likely be support for such revisions.

Although the Town has stated that they do not currently plan to acquire and hold title to the properties, they are reportedly continuing to pursue other options for exercising

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[2]These factors were previously recognized by EPA in the RI/FS Report, the Proposed Plan and the Record of Decision as supporting a residential use scenario.

[3]A portion of the southeast boundary is designated as a Commercial I (C-I) District.

appropriate control. Accordingly, EPA cannot preclude the prospect of future Town control of the properties. With that possibility in mind, EPA considers the Town's preference for residential, recreational and general community uses, as articulated in the motions adopted by the Board of Selectman, to be further support for concluding that those uses are "reasonably anticipated."

Project Timing: To the extent that details of the planned reuse are known sufficiently early in the design phase of the cleanup, it may be possible to take reasonable steps to accommodate those uses (e.g., final surface contouring, creation of utility corridors, location of monitoring wells, etc.). Also, this information sometimes enables a remedy to be phased so that certain portions of a Superfund site can be used earlier than what might otherwise be the case.

With respect to this Site, the most pressing time constraint is for the Town to resolve Site ownership and access issues so that more detailed reuse design plans can be developed prior to the implementation of the remedy set forth in the ROD. As the language in the approved May 12, 2003 Town motions makes clear, Schemes E and F are only intended to illustrate how the essential reuse elements articulated in those motions might be configured (that is, senior housing, community center and recreation fields). The motions further recognize that many implementation and design details would need to be worked out before a final configuration for the reuse of the site could be selected and built.

Superfund Liability Concerns: EPA recognizes that exposure to potential Superfund liability may be of concern to future owners or developers, including the Town. In addition, there are currently existing Town and State liens on the property, and the possibility that a future Superfund lien may arise.[4]

It will be important for EPA and NHDES to work with local officials to help clarify liability issues so that strategies for minimizing their impact are explored. The law and EPA policy can provide some relief from traditional liability concerns through the following:

- Statutory Exemptions. There are certain liability protections afforded under the Superfund statute and recent amendments, such as the *Small Business Liability Relief and Brownfields Revitalization Act* (commonly referred to as the "Brownfields Law"). Among the entities potentially covered are municipalities, lenders, and prospective purchasers.

- Commercially-Available Insurance Products. There are a wide variety of insurance products currently available. Although these products cannot eliminate Superfund liability, they can limit financial exposure and can be useful in securing loans from lending institutions.

Institutional Controls: As described, the remedy for the Site will include Institutional Controls, which could create potential limitations on future site use.

[4]In the case where the fair market value of a property increases as the result of a Superfund cleanup, EPA may, in certain situations, seek unrecovered cleanup costs from a "prospective purchaser" of the property.

Appendix A – Reference Documents Cited

Report on Reuse and Redevelopment Planning Alternatives for Beede Waste Oil/Cash Energy Superfund Site, Plaistow, NH. CMA Engineers, Inc.; Sherman, Greiner, and Halle, Ltd.; March 2003.

Proposed Strategy for the Integration of Reuse and Cleanup at Beede Waste Oil Superfund Site. Vita Nuova, LLC; February 2002.

Remedial Investigation Report. Sanborn, Head & Associates, February 2001.

EPA Memo, "Reuse Assessments: A Tool To Implement The Superfund Land Use Directive" (OSWER Directive 9355.7-06P); Larry Reed, Acting Director, Office of Emergency and Remedial Response; June 4, 2001

Proposed Plan for the Beede Waste Oil Site. EPA, June 2002.

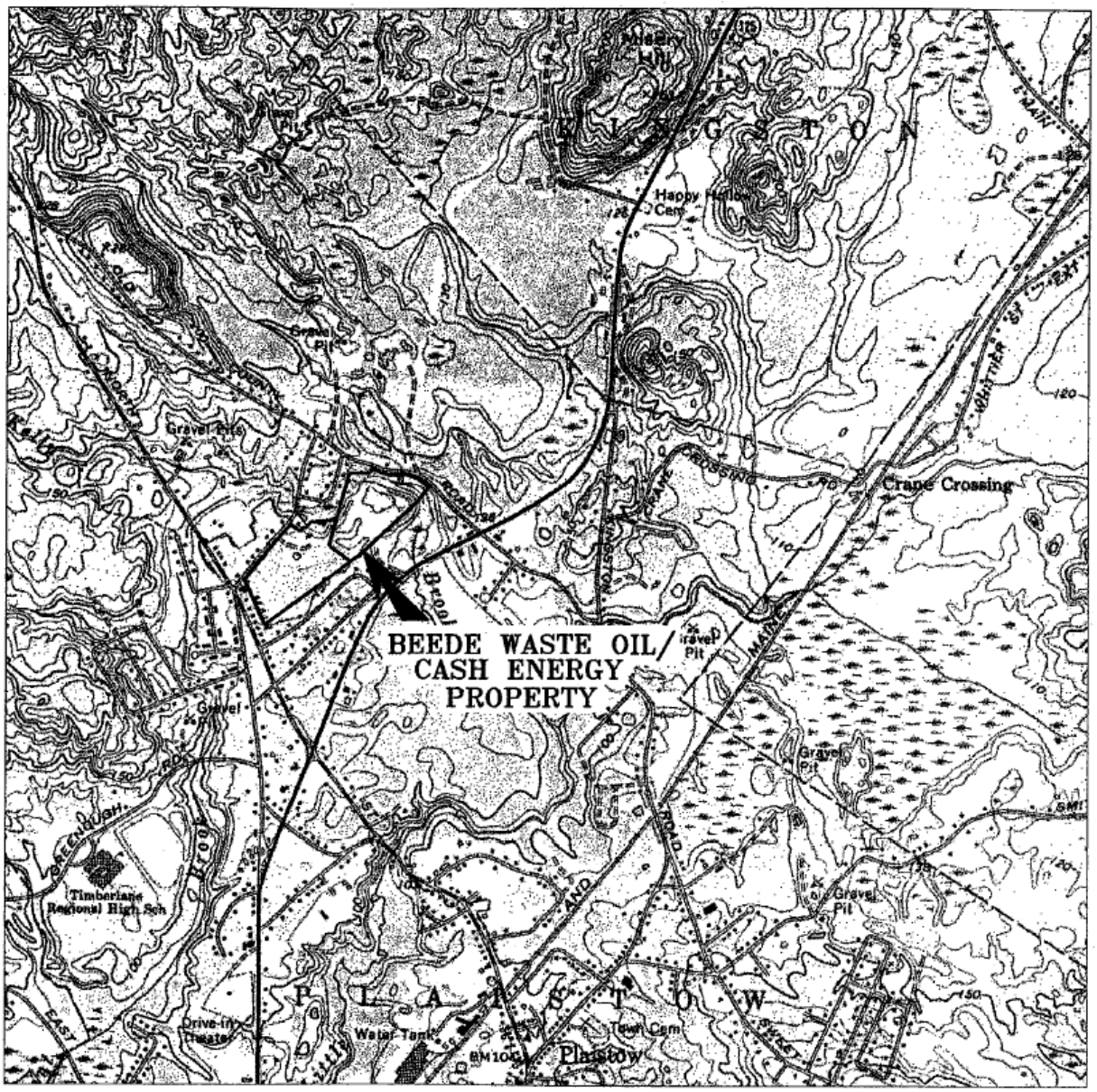
Record of Decision for the Beede Waste Oil Site. EPA, January 2004.

EPA Memo, "Land Use in the CERCLA Remedy Selection Process (OSWER Directive no. 9355.7-04); Elliott P. Laws, Assistant Administrator; May 25, 1995.

Letter and attachments to Jim DiLorenzo (EPA); John Scruton, Town Manager; May 14, 2003

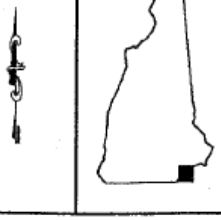
Appendix B – Site Location Map and General Site Features Plan

Site Location Map
General Site Features Plan



NOTES:

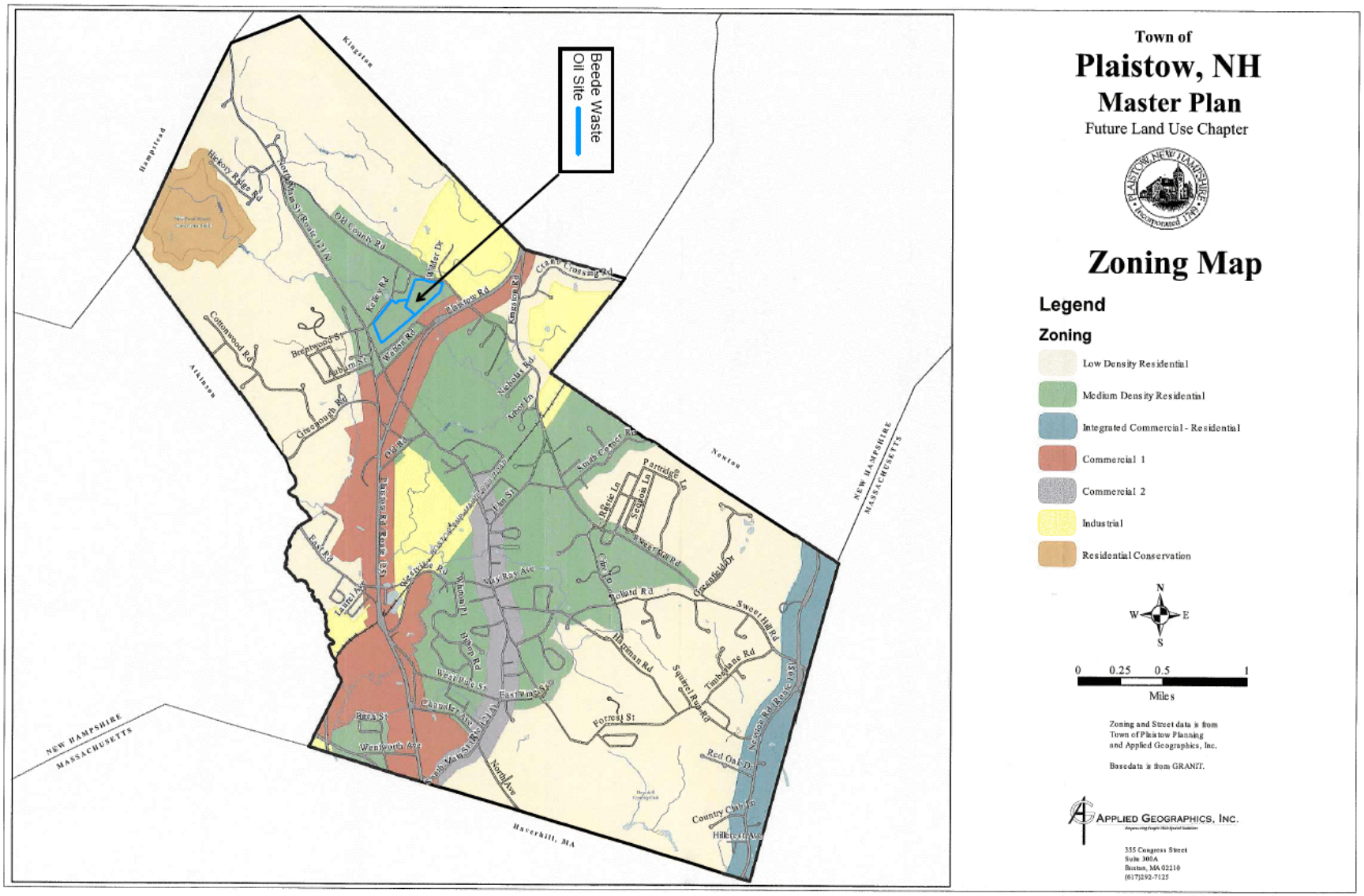
BASE MAP TAKEN FROM 7.5 MINUTE
USGS QUADRANGLE MAP:
HAVERHILL, MASSACHUSETTS–NEW HAMPSHIRE
(PHOTOINSPECTED 1977)



BEEDE WASTE OIL/CASH ENERGY SITE PLAISTOW, NEW HAMPSHIRE	FEASIBILITY STUDY LOCUS PLAN		
SHA Sanborn, Head & Associates *Consulting Engineers & Scientists*	SCALE: 1"=2000'	DRAWN BY: PGP	FILE NO.1371
	JAN 02	CHECKED BY: CAC	FIGURE NO.1.1


NOTES:
LEGEND
PARCEL 1
PARCEL 2
WALTON ROAD
ROUTE 125
SHADY LANE
GRAPHICAL SCALE
100' 50' 0 100' 200'
FEASIBILITY STUDY
BEEDE WASTE OIL/CASH ENERGY SITE
PLAISTOW, NEW HAMPSHIRE
GENERAL
SITE FEATURES PLAN
FIGURE 1.3
PROJECT NUMBER 1371
DRAWN BY: NMV
DESIGNED BY: SRN
CHECKED BY: DS
REVIEWED BY: DWC
PROJECT MGR: DS
PIC: CAC
DATE: JAN 02
Sanborn, Head & Associates
Consulting Engineers & Scientists

Appendix C - Town of Plaistow Zoning Map



Town of

Plaistow, NH

Master Plan

Future Land Use Chapter

Zoning Map

Legend

Zoning

- Low Density Residential
- Medium Density Residential
- Integrated Commercial - Residential
- Commercial 1
- Commercial 2
- Industrial
- Residential Conservation

N
W E
S

0 0.25 0.5 1
Miles

Zoning and Street data is from Town of Plaistow Planning and Applied Geographics, Inc.

Basedata is from GRANIT.

Applied Geographics, Inc.

355 Congress Street
Suite 306A
Boston, MA 02210
(617)292-7125

Appendix D - Redevelopment Scenarios

Scheme E
Scheme F


SCHEME E
CMA
ENGINEERS
CIVIL/ENVIRONMENTAL ENGINEERS
35 Bow Street
Portsmouth, New Hampshire
03801-3819
Phone: 603/431-6196
Fax: 603/431-6376
E-mail: info@cmeengineers.com
Lafayette Center
Silver Street Building, Suite 200
Kennebunk, Maine 04043
Phone: 207/985-8711
Fax: 207/985-8520
March 2003
Town of Plaistow New Hampshire
REDEVEVELOPMENT PLANNING FOR BEEDE WASTE OIL SUPERFUND SITE
SCHEME E
(in feet)
1 inch = 80 ft.
Sherman Greiner Halle' Ltd | Consulting
27 Warren Street, Concord, NH 03301
603 225-0640 (f) 603 225-0521
www.sghltd.com
Architecture
Landscape Architecture
Planning
Building Process Consultants


SCHEME F
CMA
ENGINEERS
Civil/Environmental Engineers
Architecture
Landscape Architecture
Planning
Town of Plaistow New Hampshire
REDEVELOPMENT PLANNING FOR BEEDE WASTE OIL SUPERFUND SITE
SCHEME F
March 2003
1 inch = 80 ft.

Appendix E - Town Motions Passed on May 12, 2003 on Site Reuse

Town of Plaistow

Town Hall
145 Main Street
Plaistow, NH 03865

Town Manager

John Scruton
Phone: (603) 382-5200 Ext. 13
Fax: (603) 382-7183

May 14, 2003

Jim DiLorenzo
US EPA
Suite 1100 (HBO)
1 Congress Street
Boston, MA 02114

Dear Mr. DiLorenzo:

The Board of Selectmen at their meeting May 12 received a report from the reuse committee. In response the Board of Selectmen unanimously adopted eight separate motions that represent their position on the reuse of the site. I enclose a copy of the report from the Reuse Committee and a copy of the motions that were approved. I also include copies of scheme F, which were developed to depict the scheme referenced in the CMA report May 1, 2003. I believe you have already received each of the other documents referenced by the committee report. If there are additional documents you would like, I will gladly mail them to you.

I enclose additional copies for John Podgurski and Angela Bonarrigo and ask you to give these to them. I want to thank the EPA for its cooperative work with the community. We have the highest regards for your agency as a result of interaction with the three of you. You have shown an interest in the community. During our meetings you have been valuable resources on the PILOT process and helping us understand better the complexity of the site and its clean up. I also appreciate the attendance at some of our meetings of Cynthia Lewis and Michael Jasinski.

I will be sending a request for payment on the grant once I get the final bill from CMA, which should be coming shortly. I am asking that the grant remain open so we have funds to deal with issues that still will arise with the site. If there are any questions, do not hesitate to call and again thank you for all you assistance.

Sincerely,

John Scruton
Town Manager

Enclosure: Selectmen's motions 5/12/03, Scheme F, Committee's recommendation to Selectmen
cc: John Podgurski
Angela Bonarrigo

Motions of Board of Selectmen May 12, 2003

1. I move that the Board of Selectmen accept the Reuse Committee's recommendation that the Town should continue to work with legal counsel to pursue some type of arrangement for ownership of the land where the tax liens are transferred to a land trust or other suitable entity where provisions are made such that the Town has control of all activities and uses on site but does not have any liability associated with the contaminated soils or water originating from the site. Passed 4-0

2. I move that the Board of Selectmen accept and expand on the Reuse Committee's recommendation, supporting a reuse plan which includes 26 or a similar number of units of senior housing (55 and over) compatible with the town-preferred funding at that time, at least as dispersed as shown on Schemes E and F. Passed 4-0.

3. I move that the Board of Selectmen accept and expand on the Reuse Committee's recommendation that the reuse plan should include a vehicular bridge over Kelley Brook to Old County Road for site access for recreation and Community Center uses and further add that that bridge should be the main access for the traffic associated with the remediation and clean up activities. Passed 4-0.

4. I move that the Board of Selectmen accept and expand on the Reuse Committee's recommendation that if access to Old Country Road is available, the reuse plan should include a 30,000 square foot community center with adequate parking, but if the only access is off Kelley Road the reuse plan would include a much smaller community center. Passed 4-0.

5. I move that the Board of Selectmen accept and expand on the Reuse Committee's recommendation that the reuse plan include recreational fields

Motions of Board of Selectmen May 12, 2003

compatible with access that is available and similar to Scheme E or F. Passed 4-0.

6 I move that the Board of Selectmen support a reuse plan that contains development of an offsite water source and the connection of that water to the site as part of the remediation and clean up in order to provide sufficient clean, safe water at least until such time as the underground water meets Federal and State drinking water standards. Passed 4-0.

7. I move that the Board of Selectmen recognize that both Scheme E and Scheme F incorporate the elements of the prior motions and meet the planning objectives of the Town and noting that further implementation details will need to be worked out before a final design could be selected and built. Passed 4-0.

8. I move that the Board of Selectmen recommend that the existing garage be utilized as part of the remediation and clean up process, and that a permanent use for the building will be established later by the Board of Selectmen. Passed 4-0.

9. I move we direct the Town Manager to communicate these results to the EPA and copy the NHDES in accordance with the project narrative and work plan of the PILOT task 6. Passed 4-0.


SCHEME F
CMA
ENGINEERS
Town of Plaistow New Hampshire
REDEVELOPMENT PLANNING FOR BEEDE WASTE OIL SUPERFUND SITE
SCHEME F
March 2003
Architecture
Landscape Architecture
Planning